

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
ERIE DIVISION

SHERMAN MACK,

Plaintiff

VS.

SUPERINTENDENT CLARK,  
SUPERINTENDENT AT SCI ALBION;  
DEPUTY ADAMS, DEPUTY AT SCI  
ALBION; DEPUTY ENNIS, DEPUTY AT  
SCI ALBION; JOHN DOE 1, PRC BOARD  
MEMBER AT SCI ALBION; JOHN DOE 2,  
PRC BOARD MEMBER AT SCI ALBION;  
JOHN DOE 3, PRC BOARD MEMBER AT  
SCI ALBION; JOHN DOE 4, PRC BOARD  
MEMBER AT SCI ALBION; SECRETARY  
JOHN WETZEL, LT. SISSEM, CAPTAIN  
FLOYD, SGT. KEMP, MAJOR GILL,

## Defendants

1:21-CV-00004-RAL

RICHARD A. LANZILLO  
Chief United States Magistrate Judge

ORDER TO FILE BRIEF TO ACCOMPANY  
MOTION FOR DEFAULT JUDGMENT

IN RE: ECF NO. 79

## ORDER

Pending before the Court is Plaintiff's motion for default judgment against all identified Defendants. ECF No. 79. The motion requests default judgment because Defendants have failed to comply with this Court's order setting the responsive pleading deadline for December 19, 2022. *See id.*; ECF No. 73.<sup>1</sup> But Plaintiff has not filed a supportive brief pursuant to the Local Rules of this Court and the undersigned's practices and procedures.

<sup>1</sup> As of today's date, Defendants have yet to answer or otherwise respond to Plaintiff's second amended complaint.

Local Rule of the Court 7(A) stipulates that motions pending in this Court must comply with, *inter alia*, the assigned Judge's practices and procedures. LCvR 7(A). The undersigned's practices and procedures require supportive briefs to be contemporaneously filed with motions unless the motion relates to discovery matters. *See General Practice and Procedures United States Magistrate Judge Richard A. Lanzillo United States District Court for the Western District of Pennsylvania Erie Division*, at II.A, available at [https://www.pawd.uscourts.gov/sites/pawd/files/Lanzillo\\_General\\_Practice\\_Procedures\\_22.pdf](https://www.pawd.uscourts.gov/sites/pawd/files/Lanzillo_General_Practice_Procedures_22.pdf).

Accordingly, Plaintiff is ordered to file a brief in support of the motion for default judgment on or before **February 3, 2023**. This brief should address the three factors that "control whether a default judgment should be granted: (1) prejudice to the plaintiff if default is denied, (2) whether the defendant appears to have a litigable defense, and (3) whether defendant's delay is due to culpable conduct." *Masciantonio v. United States*, 2022 WL 6702102, at \*2 (3d Cir. Oct. 11, 2022) (per curium) (quoting *Chamberlain v. Giampapa*, 210 F.3d 154, 164 (3d Cir. 2000) (citing *United States v. \$55,518.05 in U.S. Currency*, 728 F.2d 192, 195 (3d Cir. 1984))). Failure to timely file this supportive brief will result in dismissal of the motion for default judgment without prejudice.

DATED this 20th day of January, 2023.

BY THE COURT:



RICHARD A. LANZILLO

CHIEF UNITED STATES MAGISTRATE JUDGE